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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
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UNITED STATES OF AMERICA, Plaintiff, v. **Agapito GUZMAN-Partida,** Defendant	Magistrate Docket No. '08 MJ 0093 COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **January 11, 2008,** within the Southern District of California, defendant, **Agapito GUZMAN-Partida,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **14th** DAY OF **JANUARY 2008.**

Nita L. Stormes
UNITED STATES MAGISTRATE JUDGE

CAC

CONTINUATION OF COMPLAINT:
Agapito GUZMAN-Partida

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On January 11, 2008, Smuggling Interdiction Group, Criminal Alien Squad Agents were conducting surveillance at Treebeard Landscaping located at 3711 S. Bonita Street, Spring Valley, California. They were conducting surveillance based on information received that an individual identified as the defendant, **Agapito GUZMAN-Partida**, had returned to the United States illegally and was possibly working and employed at Treebeard Landscaping. At approximately 7:20 a.m., Agents A. Roozen and A. Cacho observed a man matching the description leaving in a truck. The Agents followed the truck on to Highway 125 northbound in order to do a traffic stop. Agent Cacho initiated a vehicle stop on the truck. The vehicle yielded on Highway 125 near the Navajo off-ramp. Agents Roozen and Cacho approached the vehicle and identified themselves as United States Border Patrol Agents. Both agents questioned the subject as to his identity and his immigration status. The defendant stated that he was in fact Agapito GUZMAN-Partida and that he was born in Nayarit, Mexico. The defendant was also questioned if he had any immigration documents that would allow him to enter or remain in the United States legally. He stated that he did not. The defendant was placed under arrest and transported to the Chula Vista Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **December 26, 1997**, through **Nogales, Arizona.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda Rights and stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted to being a citizen and national of Mexico, and that he is present without immigration documents that would allow him to enter or remain in the United States legally.

Executed on January 12, 2008 at 10:00 A.M.

Carlos R. Chavez
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of **one** page, I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **January 11, 2008**, in violation of Title **8**, United States Code, Section **1326**.

Nita L. Stormes
United States Magistrate Judge

1-12-08 @ 10:35 AM
Date/Time